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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/069,645      | 05/14/2002  | Martin Sommer        | 1978                | 3582             |

7590

04/26/2004

Striker Striker & Stenby  
103 East Neck Road  
Huntington, NY 11743

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| EXAMINER |
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WEAVER, SUE A

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

3727

*12*

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/069,645

Applicant(s)

SOMMER ET AL.

Examiner

Sue A. Weaver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 20-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-24, 25/21 and 33-38 is/are allowed.
- 6) ☒ Claim(s) 20, 25/20, 27, 30 and 32 is/are rejected.
- 7) ☒ Claim(s) 26, 28, 29 and 31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

1. The drawings are objected to under 37 CFR 1.84(h)(5) because Figure 4 show(s) modified forms of construction in the same view. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 20 and 25/20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lenard et al.

Lenard et al teach a coating for glass substrates which includes glass bottles. The coating includes a reactively cross-linkable plastic such as polyurethane, as claimed. The method claimed is a method limitation in a product claimed which is not considered to distinguish the product claimed over the product taught by Lenard et al.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 20 above, and further in view of Waugh. To have merely varied the thickness from the bottom of the container to the top would have been obvious in view of such teaching by Waugh for bottle coatings.

3. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claim 20 above, and further in view of Sturm, of record.

To have merely made the coating in layers with an outer layer having a greater density would have been obvious in view of such teaching by Sturm.

4. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lenard et al in view of Niederst et al.

To have applied the coating taught by Lenard et al to a plastic bottle would have been obvious in view of Niederst et al teaching the coating of a plastic bottle.

5. Claims 26, 28, 29, and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 21-24, 25/21 and 33-38 are allowed, while claims 1-19 have been canceled.

7. Applicant's arguments, see pages 26-31, of the paper filed 1/19/04, with respect to the objections and rejections under 35 USC 112 have been fully considered and are persuasive. The objections and rejections of the disclosure and claims have been withdrawn.

8. Applicant's arguments with respect to claims 20, 20/25, 27, 30 and 32 have been considered but are moot in view of the new ground(s) of rejection.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Vogel et al, Kushida et al, Wilmes et al, Asai et al and Pollard et al show other coated bottles and coatings.

10. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in

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such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Signature: \_\_\_\_\_

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (703) 308-1186. The examiner can normally be reached on Tuesday-Friday.

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— The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SW

  
Sue A. Weaver  
Primary Examiner